

# **TITLE VIII—GAS TAX RELIEF AND REBATE** **Subtitle A—Fuel Tax Holiday Rebate**

## **SEC. 8101. FUEL TAX HOLIDAY REBATE.**

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end the following new section:

### **“SEC. 6430. FUEL TAX HOLIDAY REBATE.**

“(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for the taxable year beginning in 2006 in an amount equal to \$100.

“(b) REMITTANCE OF PAYMENT.—The Secretary shall remit to each taxpayer the payment described in subsection (a) not later than August 30, 2006.

“(c) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to—

“(1) any taxpayer who did not have any adjusted gross income for the preceding taxable year or whose adjusted gross income for such preceding taxable year exceeded the threshold amount (as determined under section 151(d)(3)(C) for such preceding taxable year),

“(2) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for the taxable year beginning in 2006,

“(3) any estate or trust, or

“(4) any nonresident alien individual.”.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period “, or from section 6430 of such Code”.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 6430. Fuel tax holiday rebate.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

## **Subtitle B—Price Gouging**

### **SEC. 8201. SHORT TITLE.**

This subtitle may be cited as the “Gasoline Consumer Anti-Price-Gouging Protection Act”.

### **SEC. 8202. PROTECTION OF CONSUMERS AGAINST PRICE GOUGING.**

It is unlawful for any person to increase the price at which that person sells, or offers to sell, gasoline or petroleum distillates to the public (for purposes other than resale) in, or for use in, an area covered by an emergency proclamation by an unconscionable amount while the proclamation is in effect.

### **SEC. 8203. JUSTIFIABLE PRICE INCREASES.**

(a) IN GENERAL.—The prohibition in section 8202 does not apply to the extent that the increase in the retail price of the gasoline or petroleum distillate is attributable to—

(1) an increase in the wholesale cost of gasoline and petroleum distillates for the region in which the area to which a proclamation under section 8202 applies is located;

(2) an increase in the replacement costs for gasoline or petroleum distillate sold;

(3) an increase in operational costs; or

(4) regional, national, or international market conditions.

(b) OTHER MITIGATING FACTORS.—In determining whether a violation of section 8202 has occurred, there also shall be taken into account, among other factors, the price that would reasonably equate supply and demand in a competitive and freely functioning market and whether the price at which the gasoline or petroleum distillate was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

### **SEC. 8204. FEDERAL AND STATE PROCLAMATIONS.**

(a) IN GENERAL.—For purposes of this subtitle—

(1) the President may issue an emergency proclamation for any area within the United States in which an abnormal market disruption has occurred or is reasonably expected to occur; and

(2) the chief executive officer of any State may issue an emergency proclamation for any such area within that State.

(b) SCOPE AND DURATION.—

(1) IN GENERAL.—An emergency proclamation issued under subsection (a) shall specify with particularity—

(A) the geographic area to which it applies;

(B) the period for which the proclamation applies; and

(C) the event, circumstance, or condition that is the reason such a proclamation is determined to be necessary.

(2) LIMITATIONS.—An emergency proclamation issued under subsection (a)—

(A) may not apply for a period of more than 30 consecutive days (renewable for a consecutive period of not more than 30 days); and

(B) may apply to a period of not more than 7 days preceding the occurrence of an event, circumstance, or condition that is the reason such a proclamation is determined to be necessary.

### **SEC. 8205. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

(a) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—This subtitle shall be enforced by the Federal Trade Commission as if the violation of section 8202 were an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this subtitle in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle. Any entity that violates any provision of this subtitle is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this subtitle.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall prescribe such regulations as may be necessary or appropriate to implement this subtitle.

### **SEC. 8206. ENFORCEMENT BY STATES.**

(a) IN GENERAL.—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of this subtitle, whenever the chief legal officer of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this subtitle or a regulation under this subtitle.

(b) NOTICE.—The State shall serve written notice to the Federal Trade Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the chief legal officer of a State from exercising the powers conferred on that officer by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which the violation occurred;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this subtitle, the chief legal officer of the State in which the violation occurred may not bring an action under this section during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this subtitle alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

### **SEC. 8207. PENALTIES.**

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act any person who violates this subtitle is punishable by a civil penalty of—

(A) not more than \$500,000, in the case of an independent small business marketer of gasoline (within the meaning of section 324(c) of the Clean Air Act (42 U.S.C. 7625(c)); and

(B) not more than \$5,000,000 in the case of any other person.

(2) METHOD OF ASSESSMENT.—The penalty provided by paragraph (1) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act, the violation of this subtitle is punishable by a fine of not more than \$1,000,000, imprisonment for not more than 2 years, or both.

(2) ENFORCEMENT.—The criminal penalty provided by paragraph (1) may be imposed only pursuant to a criminal action brought by the Attorney General or other officer of the Department of Justice, or any attorney specially appointed by the Attorney General